



Enhanced Use Leasing

Business Development Opportunities

Another Tool in the Box

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Enhanced Use Leasing

- ◆ Various authorities given to DOE have authorized and required DOE to utilize its sites and facilities for economic and energy development.
- ◆ There has not been a consistent program for implementing these requirements.



Enhanced Use Leasing

- ◆ Dept. of Energy Organization Act – 42 USC 7101 (42 USC Ch 84 – Dept. of Energy)
- ◆ Atomic Energy Defense Act – 50 USC 2811 (42 USC Ch 42 – Atomic Energy Defense Provisions)
- ◆ 42 USC Ch 23 – Development and Control of Atomic Energy (42 USC sec. 2011, et seq.)
- ◆ Energy Independence & Security Act of 2007 (EISA) (P.L. 110-140)
- ◆ Enhanced Geothermal Systems R&D (42 USC 17194)
- ◆ EPAct 2005
- ◆ EPAct 1992 (42 USC 6801, et seq)(42 USC Ch 81)



Enhanced Use Leasing

- ◆ What is Enhanced Use Leasing?
 - Use of real property assets to bridge gap between available funding and fiscal requirements
 - Develop a plan outlining terms of agreement and cash or in-kind consideration to be received in exchange for use of real property.
 - Contemplated in-kind consideration includes but is not limited to:
 - Reduction of green house gases
 - Provision of renewable energy for use at DOE sites
 - Application toward current and deferred maintenance



Enhanced Use Leasing

- ◆ How do we benefit by its use?
 - Out-lease property through use of a real estate lease supported by a comprehensive business plan.
- ◆ What can we expect from potential lessees?
 - Application of principles for the reduction of green house gases
 - Permit construction or acquisition of new facilities as in-kind consideration received from leasing DOE property,
 - Allows for cash receipts to be accepted at any site under the control of DOE.
 - 50% of cash receipts must go back to the site from which the cash was generated
 - 100% received as in-kind stays at generating site



Enhanced Use Leasing

- Enhanced use leasing differs from out-leasing in the magnitude of the effort previously put forth.
- Enhanced Use Leasing contemplates a business relationship with a partner (a Community Re-Use Organization or Private Developer)
- Enhanced authority provides sites with greater latitude in managing real property assets.
- Projects can range from very small to large with significant economic development



Enhanced Use Leasing

◆ Project Considerations

- Be specific as to available real property
- Goals should be realistic with realities of economic potential
- Greatest potential exists where access is unlimited
- Force Protection is a major consideration since 9/11
 - Restrictions to available areas must be minimally impacted by Force Protection requirements
 - Consider types of tenants
 - Locations of potential out-leasing opportunities



Enhanced Use Leasing

- ◆ Major steps required to perform EUL action commencing at the installation level are:
 - Utilization Survey to determine Availability
 - Preparation of Report of Availability with an EBS and NEPA
 - Marketing Plan
 - Advertising the Availability and Government Expectations
 - Developing specifications and soliciting offers
 - Analyzing offers and negotiating requirements
 - Appraising the offered property to ensure return of adequate rental to the installation
 - Finalizing negotiations and preparing the lease document



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Services Offered

- ◆ Visit the attached websites for specific data
 - <http://eul.ey.com/>
 - <http://www.nad.usace.army.mil/is/Enhanced%20Leasing/el.htm/>
 - <http://www.asafm.army.mil/rabp/info/sop.asp>
 - http://www.housing.army.mil/Documents/phma/lease_policy.pdf
 - www.wramc.amedd.army.mil



Enhanced Use Leasing

BACK-UP SLIDES



Enhanced Use Leasing

LEGAL AUTHORITIES



Enhanced Use Leasing

- ◆ Dept. of Energy Organization Act – 42 USC 7101 (42 USC Ch 84 – Dept. of Energy)
- ◆ Title II – Establishment of the Dept.
- ◆ Sec. 203(a)(1): management of energy resource leasing procedures on Federal lands listed among duties Secretary shall assign to an Asst. Secretary
- ◆ Sec. 7256 contracts, leases, with public agencies, private organizations, and persons
- ◆ (a) General authority to enter into contracts/leases as Secretary deems necessary or appropriate to carry out functions vested in Secretary
- ◆ (c) Leasing of excess DOE property (real property and related personal property) authorized to promote national security or public interest
 - ◆ (1) At facility to be closed or reconfigured
 - ◆ (2) Not needed by DOE at time of lease
 - ◆ (3) Under DOE control
- ◆ (d) Terms of lease
 - ◆ (1) 10 years max., + 10 year renewal option
 - ◆ (2) Payment below fair market rental value ok (\$ or in-kind) including services to protect & maintain property, which can be full consideration
- ◆ (e) Environmental concerns
 - ◆ (1) National priorities list sites – consult with EPA. Not on list – consult with State official
 - ◆ (2) concurrence of EPA or State, unless fail to respond to notice after 60 days



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- ◆ Atomic Energy Defense Act – 50 USC 2811 (42 USC Ch 42 – Atomic Energy Defense Provisions)
- ◆ Transfers of real property at certain DOE facilities
- ◆ Transfer regulations
- ◆ Secretary shall prescribe regulations for transfer, by sale or lease, of real property at DOE defense nuclear facilities to permit economic development of the property
- ◆ 30 days notice to Congressional Defense committees
- ◆ Indemnification
- ◆ Secretary may hold harmless and indemnify lessee or grantee against injury to person or property resulting from release or threatened release of hazardous substance, pollutant or contaminant as a result of DOE activity.
 - All sales/leases shall state whether indemnification is provided
 - DOE can indemnify any type of entity, including successors and lenders
 - Indemnification not applicable to extent party contributed to any release or threatened release
- ◆ Defense nuclear facility = DOE defense nuclear facility per Sec.2286g, title 42



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- ◆ 42 USC Ch 23 – Development and Control of Atomic Energy (42 USC sec. 2011, et seq.)
- ◆ Sec. 2201 – General duties of Commission
- ◆ (g) acquisition of real and personal property - acquire, purchase, lease, and hold real and personal property, including patents, (subject to sec. 2224) and to sell, lease, grant, and dispose of such real and personal property (as provided in this chapter)
- ◆ (q) Easements for rights-of-way:
- ◆ Commission authorized and empowered, under terms and conditions it deems advisable, to grant easements for r-o-w over, across, in and upon acquired lands under its jurisdiction and control and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision, municipality, individual, partnership or corporation for:
- ◆ (a) railroad tracks
- ◆ (b) oil pipelines
- ◆ (c) substations for electric, phone, telegraph/pump stations for gas, water, sewer and oil pipelines
- ◆ (d) canals
- ◆ (e) ditches
- ◆ (f) flumes
- ◆ (g) tunnels
- ◆ (h) dams, reservoirs for fish & wildlife programs, other aquaculture improvements
- ◆ (i) roads and streets
- ◆ (j) any other purpose deemed advisable



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- ◆ Energy Independence & Security Act of 2007 (EISA) (P.L. 110-140)

Enhanced Geothermal Systems R&D
(42 USC 17194)

Sec. 17194(b)(2)(B) – calls for 4+ sites,
Desert Peak, NV may count as one



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- ◆ ENERGY POLICIES ACT 2005
- ◆ Sec. 372 – Consultation regarding Energy rights-of-way on public land
 - (1) MOU with Interior, Agriculture & Defense (6 months from enactment) to coordinate all federal authorizations/environmental reviews for proposed or existing utility facilities. Secretary of Energy shall coordinate authorizations and reviews with Indian tribes, multi-state entities, and State agencies responsible for separate reviews
 - (2) MOU contents:
 - (A) establish:
 - (i) unified r-o-w application form
 - (ii) admin. Procedure for processing applications, including lines of authority, steps in process, timeframes
 - (B) Coordination of planning to grant r-o-w's
 - (C) Agreement among federal agencies to prepare single environmental review document
 - (D) Coordination of use of r-o-w stipulations to achieve consistency
- ◆ Sec. 812 – Solar and Wind Technologies
 - (2) 5 projects in geographic areas of regional and climate diversity to demonstrate production of hydrogen at solar energy facilities, including at a National Laboratory or institution of higher education



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- ◆ EPLA 2005 (cont.)
- ◆
- ◆ Subtitle C – Renewable Energy
- ◆
- ◆ Sec. 931 – Renewable Energy
 - ◆ (a)(2)(B) Wind Energy
 - ◆ (iii) construction and operation of a research and testing facility capable of testing wind turbines
 - ◆
- ◆ Sec. 993 – Strategy/plan for science & energy facilities & infrastructure
 - ◆ (a) Facility & Infrastructure Policy
 - ◆ (1) In general – Secretary shall develop and implement a strategy for facilities & infrastructure
 - ◆ (2) Strategy shall provide cost-effective means for
 - ◆ (A) maintaining existing facilities
 - ◆ (B) closing unneeded facilities
 - ◆ (C) making facility modifications
 - ◆ (D) building new facilities
 - ◆ (b) Report
 - ◆ (1) In general – Secretary shall submit report on strategy with budget request for FY ‘08



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- ◆ EPAct 2005 (cont.)
- ◆ Sec. 951 - Nuclear Energy
 - (a)(6) objectives include: developing, planning, constructing, acquiring and operating special equipment and facilities for the use of researchers
- ◆ Sec. 955 – DOE Civilian Nuclear Infrastructure & Facilities
 - (a) In general – operate & maintain infrastructure & facilities to support nuclear energy R&D, demonstration and commercial application programs, including radiological facilities management, isotope production & facilities management
 - (4) develop timeline and budget for completion of deferred maintenance on plant & equipment
 - (c) comprehensive plan for facilities at Idaho National Lab
 - (3) consider establishment of national transuranic analytic chemistry lab and user facility
 - (4) plan to develop, if feasible, Advanced Test Reactor/Test Reactor Area into user facility accessible to academic and industrial researchers
 - (5) consider establishment of a fast neutron source as user facility
 - (6) consider establishment of new hot cells
 - (7) timeline and budget for deferred maintenance
 - (d) report to Congress in 1 year



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- ◆ EPAct 2005 (cont.)
- ◆ Subtitle G – Science
- ◆
- ◆ Sec. 971 – Science
- ◆ (a) conduct programs of research, development, demonstration, commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific computing research and fusion energy sciences. Programs shall include support for facilities and infrastructure, education, outreach, information, analysis, and coordinated activities.
- ◆ Sec. 972 – Fusion Energy Sciences Program
 - (b)(1) (C) new magnetic and inertial fusion research and development facilities to be selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable
 - (D) facilities that are selected are funded at a cost effective rate
 - (c) U.S. participation in ITER
 - (1)(A)(i) construction
 - (I) physical construction of ITER facility; and



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- ◆ EPAct 2005 (cont.)

- (II) physical construction, purchase, or manufacture of equipment or components specifically designed for ITER facility

- ◆ Sec. 973 – Catalysis Research Program

- (c) duties of Office of Science

- (2) develop, plan, construct, acquire, share or operate special equipment or facilities for the use of investigators in collaboration with national user facilities, such as nanoscience and engineering centers;

- (3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

- (4) coordinate R&D activities with industry and other federal agencies.

- ◆ Sec. 977 – Systems Biology Program

- (d) User facilities and ancillary equipment...develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities at National Labs, for researchers conducting research, development, demonstration and commercial application in systems biology and proteomics and associated biological disciplines.

- ◆ Title XVII – Incentives for Innovative Technologies



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- ◆ Sec. 1702 – Terms & Conditions (of loan guarantees)

- (c) amount – unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80% of the project cost of the facility, as estimated at time of guarantee

- (f) term – full repayment not to exceed lesser of:

- (1) 30 years

- (2) 90% of projected useful life of physical asset to be financed

- (g) defaults

- (2) subrogation – Secretary authority to:

- (i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements

- ◆ (B) Superiority of rights – rights of Secretary with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property



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- ◆ EPAAct 2005 (cont.)
- ◆ Sec. 1833 – Renewable Energy on Federal land
 - (a)(1) study by National Academy of Sciences of potential of developing wind, solar and ocean energy, including tidal, wave and thermal, on Federal land available for those uses under current law.

A decorative vertical strip on the left side of the slide. It features a collage of military medals and a compass. At the top is a circular medal with a star. Below it is a blue ribbon with a circular rosette. Further down is a large, ornate cross-shaped medal with a central circular emblem. At the bottom is a circular compass with a needle and degree markings.

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- ◆ EPAct 1992 (42 USC 6801, et seq)(42 USC Ch 81)
- ◆ Sec. 6834 – Federal building energy efficiency standards